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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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TOM FORESE – Chairman
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2017 MAR 31 P 2:06

MAR 31 2017

DOCKETED BY
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In the matter of:

DOCKET NO. S-20986A-16-0340

JACOB WOHL, a single man,

MATTHEW JOHNSON, a single man,

WOHL CAPITAL INVESTMENT GROUP, LLC, a
California limited liability company,

NEX CAPITAL MANAGEMENT, LLC, a Delaware
limited liability company, and

MONTGOMERY ASSETS, INC., a Wyoming
corporation,

Respondents.

PROCEDURAL ORDER
(Schedules Hearing)

BY THE COMMISSION:

On September 27, 2016, the Securities Division (“Division”) of the Arizona Corporation Commission (“Commission”) filed its Temporary Order to Cease and Desist and Notice of Opportunity for Hearing (“Notice”) against Jacob Wohl, a single man, Matthew Johnson, a single man, Wohl Capital Investment Group, LLC, a California limited liability company, NeX Capital Management, LLC, a Delaware limited liability company, and Montgomery Assets, Inc., a Wyoming corporation (collectively “Respondents”), in which the Division alleged violations of A.R.S. §§ 44-1801, *et seq.*, the Arizona Securities Act (“Securities Act”), and A.R.S. §§ 44-3101, *et seq.*, the Investment Management Act (“IM Act”), in connection with the offer and sale of securities in the form of promissory notes, investment contracts and/or loan agreements.

On February 28, 2017, the Division filed its Memorandum and Proposed Order to Cease and Desist, Order for Restitution, and Order for Administrative Penalties (“Proposed Order”).

1 On March 9, 2017, Respondent Wohl sent an email to the Division requesting a hearing.¹

2 Also on March 9, 2017, the Division filed its Request for Pre-Hearing Conference. The
3 Division asked that the pre-hearing conference be scheduled to determine whether Respondent Wohl's
4 request for a hearing should be granted or denied.

5 On March 14, 2017, by Procedural Order, a pre-hearing conference was scheduled to commence
6 on March 28, 2017.

7 On March 27, 2017, the Division filed an email exchange between the Division and Respondent
8 Wohl in which Respondent Wohl stated he "will appear at tomorrow's hearing via telephone"
9 ("Request").

10 Also on March 27, 2017, by Procedural Order, Respondent Wohl's Request was granted.

11 On March 28, 2017, the pre-hearing conference was held as scheduled. The Division appeared
12 through counsel. Respondent Wohl appeared *pro per* via telephone. Respondent Johnson did not
13 appear. The Division opposed Respondent Wohl's request for a hearing, and this issue was taken under
14 advisement. The scheduling of a hearing was discussed in the event the matter proceeds to hearing.
15 Furthermore, the Division requested that the schedule include a deadline for Respondents to file their
16 Answers.

17 Pursuant to Arizona Administrative Code ("A.A.C.") R14-4-307(C), a Respondent will be
18 afforded a hearing if it files a request for hearing within 20 days of service of the Notice. A.A.C. R14-
19 4-307(C) further provides that "[i]f a request for a hearing is not filed within 20 days, the Commission
20 **may**, by written findings of fact and conclusions of law, vacate, modify, or make permanent the
21 temporary cease-and-desist order." (Emphasis added)

22 Respondent Wohl stated that when he was served with the Notice, he was not provided notice
23 that the Division "would be seeking restitution, fines or penalties of any kind."² Respondent Wohl
24 further stated that he first received such notice when he viewed the Proposed Order and immediately
25 thereafter contacted the Division to request a hearing. While it is noted that the Notice served upon
26 Respondent Wohl included notice that the Division is requesting restitution and monetary penalties,³

27 ¹ The email was also filed in this docket on March 9, 2017.

28 ² See email that was filed in this docket on March 27, 2017, page 1.

³ See Notice, pages 20, 21.

1 given the discretion afforded to the Commission in A.A.C. R14-4-307(C), and giving deference to
2 Respondent Wohl's statements, it is appropriate to grant Respondent Wohl's request for hearing.

3 Pursuant to A.A.C. R14-4-305, a Respondent who has requested a hearing shall file an
4 Answer within 30 days of service of the Notice. To this date, Respondents have not filed an Answer.
5 It is therefore appropriate to include in this Procedural Order a deadline for which all Respondents must
6 file an Answer.

7 IT IS THEREFORE ORDERED that a **hearing shall be held commencing on June 26, 2017,**
8 **at 10:00 a.m., at the Commission's offices, 1200 West Washington Street, Hearing Room No. 1,**
9 **Phoenix, Arizona.**

10 IT IS FURTHER ORDERED that the parties shall also reserve **June 27, 28, 29, and 30, 2017,**
11 **for additional days of hearing,** if necessary.

12 IT IS FURTHER ORDERED that **Respondents shall file an Answer no later than April 28,**
13 **2017.**

14 IT IS FURTHER ORDERED that **the Division and Respondents shall exchange copies of**
15 **their Witness Lists and copies of the Exhibits by May 24, 2017,** with courtesy copies provided to
16 the presiding Administrative Law Judge.

17 IT IS FURTHER ORDERED that **if the parties reach a resolution of the issues raised in the**
18 **Notice prior to the hearing, the Division shall file a Motion to Vacate the Proceeding.**

19 IT IS FURTHER ORDERED that each party or prospective party shall **refer to the Procedural**
20 **Order Regarding Consent to Email Service** issued in this matter on **March 14, 2017,** for additional
21 information regarding the process to consent to service by email. Information regarding Consent to
22 Email Service is also available on the Commission's website (www.azcc.gov) by clicking on "Email
23 Service Consent."

24 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
25 Communications) applies to this proceeding as the matter is now set for public hearing, and shall remain
26 in effect until the Commission's Decision in this matter is final and non-appealable.

27 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
28 31, 38, 39, and 42 and A.R.S. §40-243 with respect to the practice of law and admission *pro hac vice*.

1 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
2 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona
3 Supreme Court Rule 42). Representation before the Commission includes the obligation to appear at
4 all hearings, procedural conferences, Open Meetings for which the matter is scheduled for discussion,
5 unless counsel has previously been granted permission to withdraw by the Administrative Law Judge
6 or Commission.

7 IT IS FURTHER ORDERED that the Presiding Administrative Law Judge may rescind, alter,
8 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by
9 ruling at hearing.

10 DATED this 31 day of March, 2017.

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13 BRIAN D. SCHNEIDER
14 ADMINISTRATIVE LAW JUDGE
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1 On this 31st day of March, 2017, the foregoing document was filed with Docket Control as a
2 Procedural Order – Schedules a Hearing, and copies of the foregoing were mailed on behalf of the
3 Hearing Division to the following who have not consented to email service. On this date or as soon as
4 possible thereafter, the Commission's eDocket program will automatically email a link to the foregoing
5 to the following who have consented to email service.

6 Jacob Wohl
7 1987 Crystal Downs Dr.
8 Corona, CA 92883

9 Matthew Johnson
10 8309 Kirkwood Dr.
11 Los Angeles, CA 90046

12 Matthew Neubert, Director
13 Securities Division
14 ARIZONA CORPORATION COMMISSION
15 1200 West Washington Street
16 Phoenix, AZ 85007
17 SecDivServicebyEmail@azcc.gov

18 **Consented to Service by Email**

19 COASH & COASH, INC.
20 Court Reporting, Video and
21 Videoconferencing
22 1802 North 7th Street
23 Phoenix, AZ 85006
24 **Not a party, mailed as a courtesy**

25 By: 
26 Staci Antrim
27 Assistant to Brian D. Schneider
28